

General Information Letter: Illinois income tax treatment of health savings accounts qualifying under IRC Section 223 follows the federal treatment.

March 8, 2005

Dear:

This is in response to your letter dated March 1, 2005, in which you request advice. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information, the regulation governing the issuance of letter rulings, 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department, can be accessed at the Department's website. That address is [www.revenue.state.il.us/legalinformation/regs/part1200](http://www.revenue.state.il.us/legalinformation/regs/part1200).

The nature of your question and the information provided require that we respond only with a GIL.

In your letter you state in part as follows:

I would like an answer for the tax treatment of the Health Savings Account in particular for the State of Illinois.

Last year the BANK, ADDRESS, CITY, Wisconsin, informed its recipients of the Medical Savings Account that they would transfer them at any time to the Health Savings Accounts recently signed by the President and they will be however treated with the same way for tax purposes for medical reason only as they were originally created.

Recently they sent to all agreeable depositors the enclosed statement stating that some of the states do not recognize the transfer and 'accounts may have incurred a liability and considered a taxable event.' I would like to know as state of Illinois residents where we stand in this matter. I called the state revenue service and they referred me to you the legal experts.

**Response:**

Section 223 of the Internal Revenue Code allows taxpayers to make contributions to a "health savings account" (HSA) as defined in that section. Contributions into an HSA are deductible against federal Adjusted Gross Income ("AGI"), earnings within the account are allowed to accrue tax-free, and distributions from an HSA that are used to pay qualified medical expenses (within the meaning of IRC 213(d)) are excluded from AGI. Because the starting point in computing Illinois net income is federal AGI, these federal tax benefits automatically apply for Illinois income tax purposes. The tax benefit of any exclusion from federal AGI automatically confers an Illinois tax benefit. Therefore, rolling over amounts from a Medical Savings Account into a Health Savings Account will trigger no Illinois income tax liability except to the extent that any such amount is deducted in computing federal AGI. Furthermore, once the amounts are in the Health Savings Account, they will not be taxable in Illinois because they are already excluded from AGI by federal law.

As stated above, this is a GIL which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you wish to obtain a PLR which will bind the Department with respect to the application of the law to specific facts, please submit a request conforming to the requirements of 2 Ill. Adm. Code Part 1200.

Sincerely yours,

Jackson E. Donley,  
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